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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,790	12/07/2001	Hideyuki Mori	116692001000	7892
25227	7590	06/29/2007	EXAMINER	
MORRISON & FOERSTER LLP			ALLEN, WILLIAM J	
1650 TYSONS BOULEVARD				
SUITE 400			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			3625	
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			06/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No:</b>	<b>Applicant(s)</b>
	10/004,790	MORI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	William J. Allen	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 03 May 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1,2,5,6,12,15,19,20,26,29,30 and 43 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,5,6,12,15,19,20 and 26 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 29-30 and 43 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 6/4/07.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Prosecution History Summary***

Claims 1-2, 5-6, 12, 15, 19, 20, 26, 29-30, and 43 remain pending.

Claims 1-2, 5-6, 12, 15, 19, 20, and 26 are hereby withdrawn as set forth below.

### ***Election/Restrictions***

- I. Claims 1-2, 5-6, 12, 15, 19, 20, and 26, drawn to a method and system of receiving and handling an order utilizing a network-order-reception subsystem, classified in class 705, subclass 26.
- II. Claims 29-30 and 43, drawn to an order-reception system and computer readable medium, classified in class 705, subclass 26.

Newly amended claims 1-2, 5-6, 12, 15, 19, 20, and 26 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as providing a network-order-reception subsystem which receives customer order information sent from a customer or sent from a service person. The Examiner additionally notes that, according to the specification, independent claims 1 and 15 are now drawn to a different embodiment than that of claims 29 and 43.

Specifically speaking, this assertion is supported when contrasting Fig. 5 and Fig. 10, and further reiterated in applicant's specification, Page 27 line 9-Page 28 line 7. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Since applicant has received an action on the merits for the originally presented invention (i.e. remaining claims 29-30 and 43), the invention of claims 1-2, 5-6, 12, 15, 19, 20, and 26 has been constructively elected by original presentation for prosecution on the merits. **Accordingly, claims 1-2, 5-6, 12, 15, 19, 20, and 26 withdrawn from consideration as being directed to a non-elected invention.** See 37 CFR 1.142(b) and MPEP § 821.03.

***Response to Arguments***

Applicant's arguments filed 5/3/2007 have been fully considered but they are not persuasive. Applicant has amended claims 29 and 43 to recite the features including "means for receiving customer order information sent from the customer or sent from a service person using a portable communications device" the order information representing "contents of an order for a commodity ordered by the customer or by the service person", and delivering the commodity "to a place specified by the customer or by the service person". Though Applicant asserts that the claimed invention now facilitates a service person placing the order for the commodities, this is merely an alternative possibility in the claims. In other words, the claims only require that either of a customer *or* a service person place an order and specifies a delivery location. As indicated in the prior rejection, the aspect of the customer placing the order and specifying the delivery location is taught by the cited art, thereby, the requirements of the claims have been met by the previous rejection. Therefore, the rejection mailed 1/4/2007 has been maintained below.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 29 - 30 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiecha (US 5870717) in view Sharma et al. (US 20010037259) and in further view of Manchala (US 6405178).**

Regarding claims 29 and 43, Wiecha teaches a method and system of receiving and handling an order from a customer using an order-reception system, which is comprised of at least one computer and has an order-reception Subsystem, business management subsystem and order-entry subsystem, comprising the steps of:

registering, by the order-entry subsystem, price information designating a price of a commodity, in a database of the business management system (see at least Col. 1 lines 65-67, Col 3, lines 14 – 17, Col 5 lines 48-50 and Figures 6, 7 and 12);

creating, by the order-reception subsystem, an order form for purchasing commodities and catalog, based on the price information (see at least Col 3, lines 14 – 28, Col 4, lines 14 – 40 and lines 48 – 55);

registering by the order-reception subsystems sales-promotion information to be displayed sales-promotion materials and inquiry information to be displayed as O&A information's;

storing, in a sales-information database comprising a storage by the order-reception subsystem, Bulletin Board System information to be posted on a Bulletin Board System style page according to date and classification; the registered sales-promotion information to be displayed as sales-promotion materials according to date and classifications' and the registered inquiry information to be displayed as the O&A information according to date, context and maker;

displaying by the order-reception subsystem the Bulletin Board System information on the Bulletin Board System style pages

displaying by the order-reception subsystem, the sales-promotion materials; receiving- by the order-reception subsystems customer order information sent from the customer, said customer order information including customer information regarding the customer and at least one of ordering information representing contents of an order for a commodity ordered by the customer and support request information representing contents of a support request;

performing- by the order-reception subsystem. the order reception processing based on the received customer order information;

determining by the order-reception subsystems to deliver the commodity specified in the ordering information and to provide a support specified in the support information, based on a result of the order reception processing;

wherein the support request includes information regarding for at least one of: a service for delivering the commodity to a place specified by the customer; a service for unpacking the ordered commodity at time of delivery; a service for collecting an empty box that the customer

does not need any more; a service for delivering commodities that are repeatedly supplied to the customer on a FIFO basis; a service for specifying a delivery date for delivering the commodity to be delivered; a service for urgently delivering the ordered commodity; and a service for periodically delivering a constant number of commodities specified by the customer (see at least: col. 10 lines 4-6, col. 12 lines 6-10 (note shipping date, address, location, etc.)); and

charging by the order-reception subsystem a price of the commodity specified in the ordering information and a cost of the support specified in the support request information, based on the customer information including information regarding a price of each commodity purchased by the customer with high frequency and a cost of each support requested by the customer with high frequency, wherein the price and the cost are set by a seller of the commodity and support (see at least Abstract, Col 4, lines 14 –41, Col 5, lines 30 – 53, Col 8, lines 14 – 22, Col 9, lines 48 – 49, Col 10, lines 39 – 42, Col 12, lines 6 – 20 and Figures 3, 7, 8 and 12).

It is additionally noted that supplier catalogs are provided to “promote” their products and catalogs are thereby considered to be sales promotion information. In turn, this promotion information is stored in the method and system of Wiecha for retrieval and display for the purchaser to browse and purchase. Once the purchaser selects the product or service, the PO is processed by the business/legacy systems (i.e. order reception subsystem) of Wiecha and the appropriate charge for the product is applied to the appropriate internal budget (business management subsystem)[see at least Figures 6 and 7]. In turn, the PO is sent to the supplier, who acknowledges and updates the purchaser regarding status of the order. Moreover, Wiecha discloses multiple subsystems including an order reception subsystem (Figure 7). Furthermore, Wiecha discloses updates to the catalog/sales promotion information are received from suppliers

in order to keep sales promotion information such as price set by the supplier to keep current (Col 5, lines 51 - 53). Also please note that the steps of registering, storing, displaying and receiving are merely transmitting, storing, displaying and receiving data, which is considered to be non functional descriptive material (MPEP 2106). For example, the storing of the Bulletin Board System style sheet and following recitation regarding the Bulletin Board System information is considered to be non-functional descriptive material, which is given very little patentable weight. The phrase(s) and or word(s) after storing are given little patentable weight because the claim language limitation is considered to be non-functional descriptive material, which does not patentably distinguish the applicant's invention from Wiecha. Thereby, the non-fictional descriptive material is directed only to the content of the information stored (Bulletin Board System information) and therefore does not affect either the structure or method/process of Wiecha, which leaves the method and system unchanged.

Though Wiecha teaches all of the above as noted, Wiecha does not expressly teach confirming, by the order-reception system, whether the commodity is delivered and the support is provided; and obtaining, by the order-reception subsystem, statistics based on the customer information and the customer order information of each of a plurality of customers and updating the customer information and the customer order information with the calculated statistics.

In the same field of endeavor, Sharma teaches a consumable commodities purchasing system for an office purchaser or homeowner to regularly reorder supplies using a profile on the

administrator's website (see at least: abstract). More specifically, Sharma teaches *obtaining statistics based on the customer information and the customer order information of each of a plurality of customers and updating the customer information and the customer order information with the calculated statistics* (see at least: 0007, 0024-0027, 0056-0057). It would have been obvious to one of ordinary skill in the art at the time of invention to have included obtaining, by the order-reception subsystem, statistics based on the customer information and the customer order information of each of a plurality of customers and updating the customer information and the customer order information with the calculated statistics as taught by Sharma in order to provide a system that eases the managing of general office supplies as well as supplies specific to the business. This means a single point of ordering supplies, which results in a reduction in transaction costs and an increase in the efficiency of the supply chain mechanism (see at least: Sharma, 0027).

To the same accord, Manchala teaches a system for automatically ordering consumable supplies (see at least: abstract). Manchala further teaches where delivery is confirmed and inventory is updated by reading information on the goods and automatically updating inventory once the goods have arrived at the4 destination (see at least: col. 5 lines 3-7). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Wiecha to have included *confirming, by the order-reception system, whether the commodity is delivered and the support is provided* as taught by Manchala in order to provide a total solution for electronic commerce that is also tied to inventory management, email filtering and rule based

authorization to purchase goods with allowances for price changes (see at least: Manchala, col. 3 lines 20-25).

**Regarding claim 30,** Wiecha in view of Sharma in further view of Manchala further teaches a method and system further including steps of checking by the order-entry subsystem whether there is a stock of the commodity specified in the ordering information based on stock information; determining by the order-entry subsystem a delivery date for delivering the ordered commodity; and sending by the order-entry subsystem order-reception confirmation information including delivery date information representing the determined delivery date and the customer information to the customer either in a facsimile form or e-mail form (see at least: Manchala, Abstract, Col 1, lines 39 – 42, Col 5, lines 3 – 7).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh Garg can be reached on (571) 272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen  
Patent Examiner  
June 20, 2007



Mark Fadok

Primary Examiner